CCRB INVESTIGATIVE RECOMMENDATION

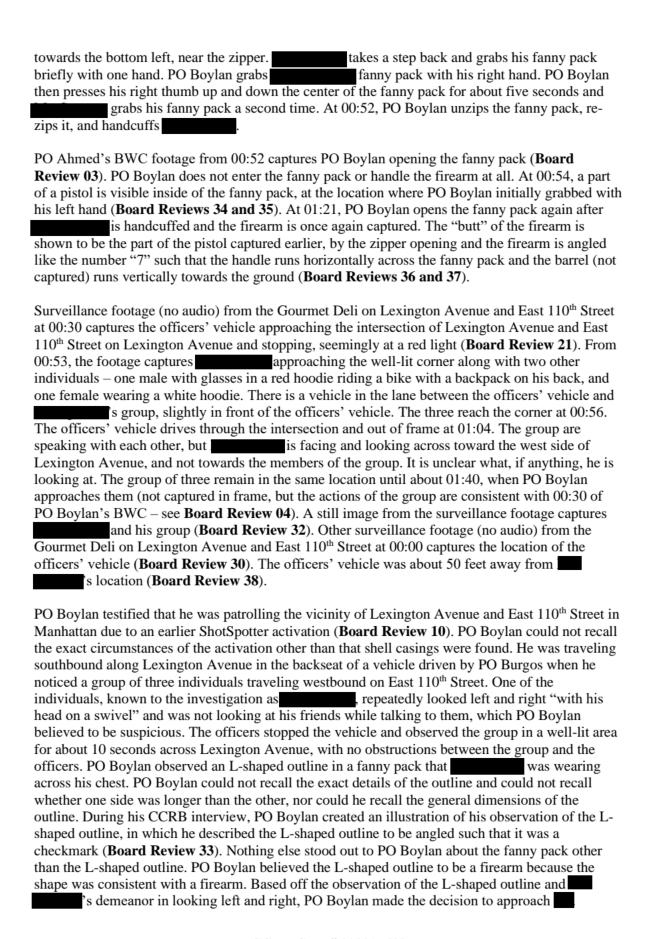
Investigator:		Team:	CCRB Case #:	▼ Fo	orce	V	Discourt.		U.S.
Adip Vora		Squad #1	202207428	☑ A	buse		O.L.		Injury
Incident Date(s)		18 Mo. SOL	EO SOL	Locat	ion of I	Incide	ent:	Pre	cinct:
Saturday 04/23/2022 11:30 PM Wednesday 10/19/2022 11:00 AM		10-23-2023 04-19-2024	10-23-2023 04-19-2024	Ave	enue an	d Ea	Lexington st 110th tre Street		23
Date/Time CV Reported		CV Reported At:	How CV Reported:	: Da	ate/Time	e Rece	eived at CCI	RB	
Tue, 11/01/2022 4:13 PM		CCRB	E-mail	Τι	ie, 11/0	1/2022	2 4:13 PM		
Complainant/Victim	Type	Home Addre	ess						
1.									
2									
2. 1									
3.		§ 87(2)(b)							
Subject Officer(s)	Shield	TaxID	Command						
1. PO Daniel Boylan	13957	959503	PBMN SU						
2. PO Shahzeb Ahmed	26865	964865	PBMN SU						
3. PO Wilfredo Burgos	13254	953710	PBMN SU						
Officer(s)	Allegatio	on			Inve	estiga	ator Recon	nme	ndation
A . PO Daniel Boylan		Authority: On April 23 110th Street, Police Of				§ 87(2)((g)		I
B . PO Daniel Boylan		Authority: On April 23 110th Street, Police Of			ш Б.	§ 87(2)((g)		I
C . PO Daniel Boylan		n April 23, 2022, at Lexeet, Police Officer Dan			C .	§ 87(2)(g)		
D. PO Daniel Boylan		esy: On April 23, 2022, th Street, Police Officer ously to			D .	§ 87(2)((g)		
E. PO Daniel Boylan		esy: On April 23, 2022, th Street, Police Officer ously to			Е.	§ 87(2)(g)		
F . PO Shahzeb Ahmed		esy: On April 23, 2022, th Street, Police Officer ously to			F.	§ 87(2)(<u>(</u>	g)		
G . PO Wilfredo Burgos		esy: On April 23, 2022, th Street, Police Officer ously to			G .	§ 87(2)((g)		
H . PO Shahzeb Ahmed		esy: On April 23, 2022, th Street, Police Officer ously to			Н.	§ 87(2)((g)		

Officer(s)	Allegation	Investigator Recommendation
I . PO Daniel Boylan	Abuse of Authority: On April 23, 2022, at Lexington Avenue and East 110th Street, Police Officer Daniel Boylan improperly used his body-worn camera.	e I. § 87(2)(9)
J. PO Shahzeb Ahmed	Abuse of Authority: On April 23, 2022, at Lexington Avenue and East 110th Street, Police Officer Shahzeb Ahmed improperly used his body-worn camera.	e J. § 87(2)(g)
K . PO Daniel Boylan	Abuse of Authority: On October 19, 2022, at 100 Centre Street, Police Officer Daniel Boylan provided a false official statement against	K . § 87(2)(9)
§ 87(4-b) § 87(2)(g)		

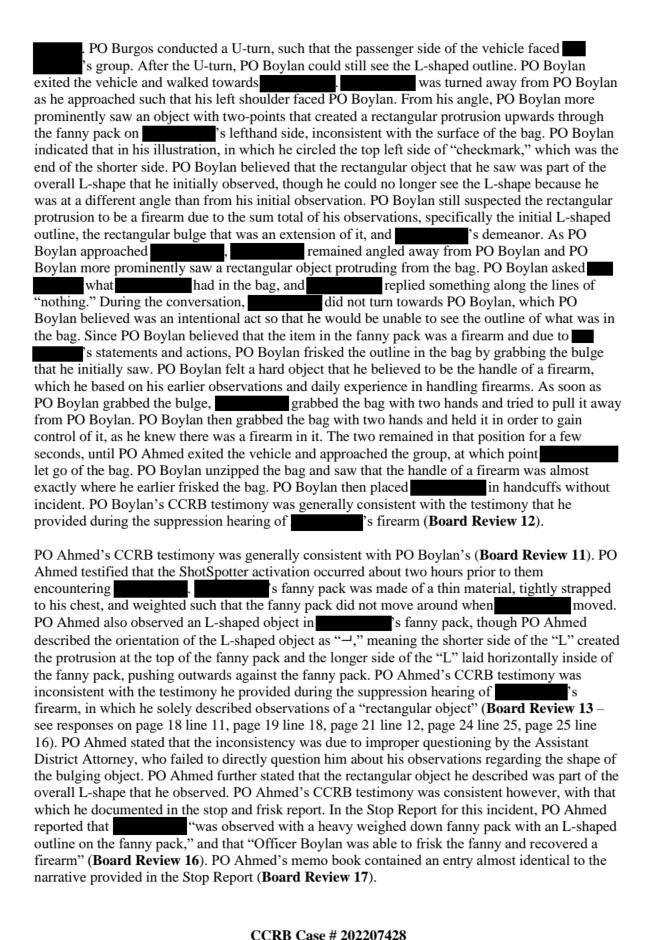
<u>Case Summary</u>
On November 1, 2022, an attorney with the Legal Aid Society, filed this complaint with the CCRB via email, on behalf of
On April 23, 2022, at approximately 11:30 PM, at the southeast corner of Lexington Avenue and East 110 th Street in Manhattan, Police Officer Daniel Boylan, of Patrol Borough Manhattan North Specialized Units, stopped and frisked (Allegations A and B: Abuse of Authority – \$67(2)(9) (Allegation C: Force – \$37(2)(9) (Allegation D: Discourtesy – \$37(2)(9) (Allegation E: Discourtesy – \$37(2)(9) (Allegation D: Discourtesy – \$37(2)(9) (Allegation B: Discourtesy – \$37(2)(9) (Allegation B: Discourtesy – \$37(2)(9) (Allegation B: Discourtesy – \$37(2)(9) (Allegations F and G: Discourtesy – \$37(2)(9) (Allegations F and G: Discourtesy – \$37(2)(9) (Allegations I and J: Abuse of Authority – \$37(2)(9) (Board Review 01).
On October 19, 2022, at the New York County Supreme Court located at 100 Centre Street in Manhattan, PO Boylan provided a false official statement against (Allegation K: Abuse of Authority – § 87(2)(9)
§ 87(4-b) § 87(2)(g)
Three body-worn camera (BWC) videos were received in relation to this incident (Board Reviews 02-05). provided three surveillance videos of the incident (Board Reviews 21, 30, 31).
No civilian provided a statement to the investigation. An investigation was conducted based on the available evidence (Board Reviews 14-15).
Findings and Recommendations Allegation (A) Abuse of Authority: On April 23, 2022, at Lexington Avenue and East 110th Street, Police Officer Daniel Boylan stopped Allegation (B) Abuse of Authority: On April 23, 2022, at Lexington Avenue and East 110th Street, Police Officer Daniel Boylan frisked In her email to the CCRB, alleged that PO Boylan unlawfully frisked (Board Review 09).
PO Boylan's BWC footage from 00:00 of the video player's running time captures PO Boylan inside the rear passenger's side seat of a vehicle (Board Review 04). The vehicle is parked on the southwest corner of Lexington Avenue and East 110 th Street. POs Burgos and Ahmed are sitting in the front driver and passenger seats, respectively, and are looking out of the driver's side window toward the southeast corner. The southeast corner is well lit by storefront lighting, but glare from the light obscures the corner. Five single file vehicles drive past the driver's side of the police vehicle before PO Burgos, at 00:14, turns left, crosses over Lexington Avenue and stops in front of the southeast corner of Lexington Avenue and East 110 th Street. PO Boylan exits the vehicle and approaches who is standing with two others. It is standing angled slightly towards PO Boylan, with his left shoulder pointed towards PO Boylan. It is wearing a black Adidas fanny pack strapped across his chest, from his left shoulder to his right hip. It does not move from his position. There is no discernable bulge or outline on fanny pack. At 00:39, PO Boylan reaches out with his left hand and grips 's fanny pack's fanny pack.

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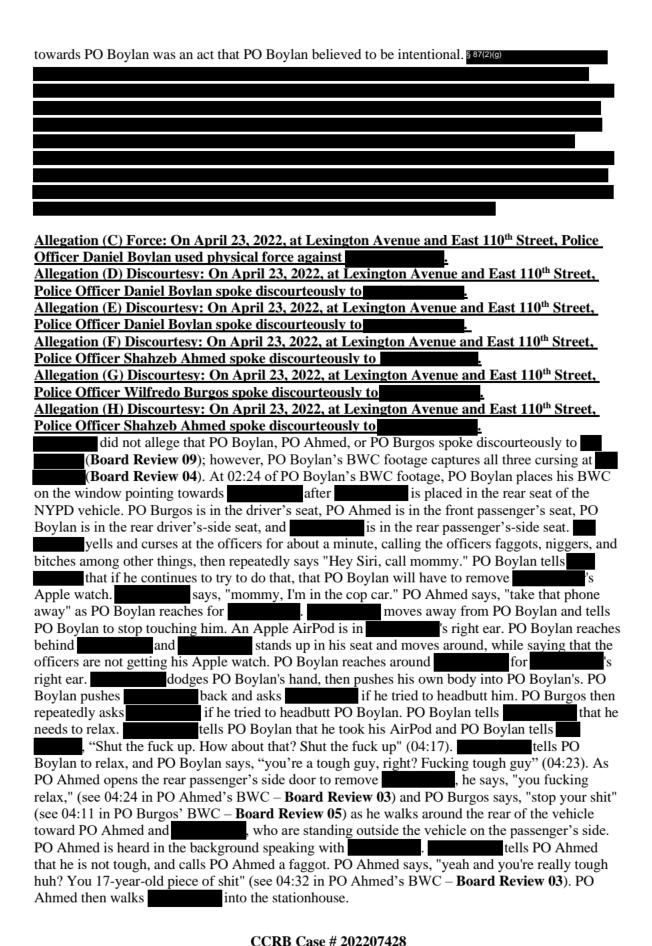
PO Ahmed vouchered a pistol as arrest evidence in relation to this incident (**Board Review 39**).

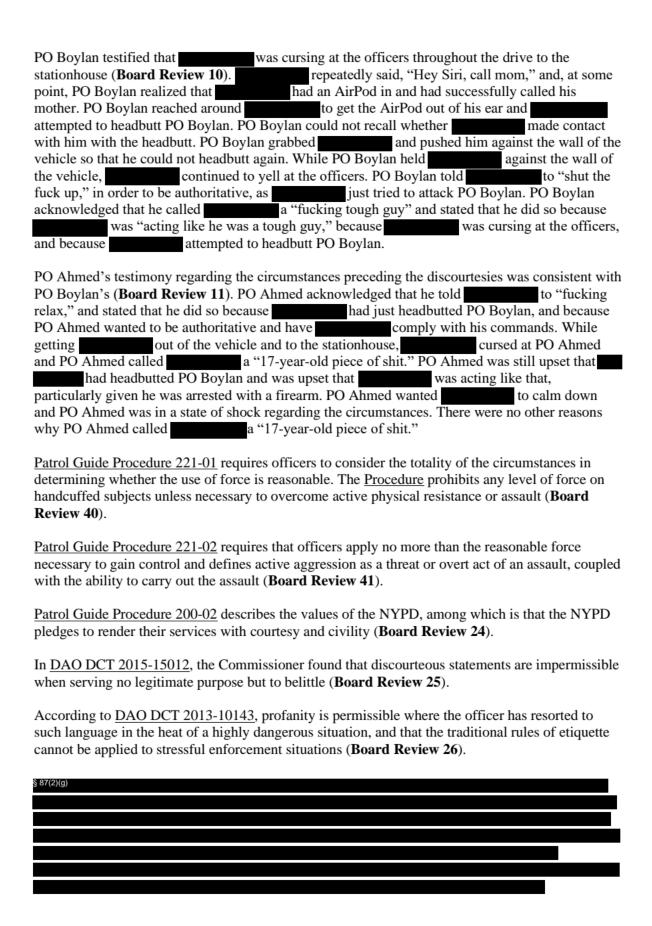
In <u>People v. De Bour, 40 N.Y.2d 210</u>, the Court established that when an officer has reasonable suspicion that a particular person has committed, is committing, or is about to commit a crime, the officer may forcibly stop and detain that person. Furthermore, if an officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed, they have the authority to frisk the detainee (**Board Review 18**).

In <u>People v. Kennebrew</u>, 106 A.D.3d 1107 the Court affirmed that innocuous behavior alone will not generate reasonable suspicion that a crime is at hand. The Court further affirmed that an unidentifiable bulge which is readily susceptible of an innocent as well as a guilty explanation is not sufficient to justify a pat-down search and opined that, as an individual has the right to refuse to answer an officer's questions, the fact that an individual does not answer does not justify a further intrusion (**Board Review 20**).

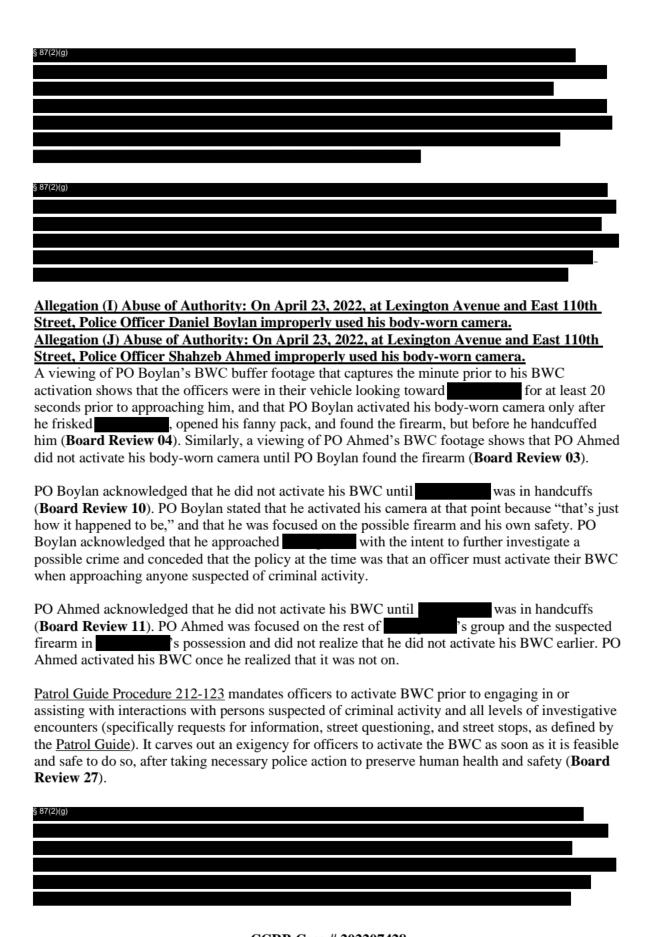
In <u>People v. Cornelius</u>, 113 A.D.2d 666, the Court found that a defendant's response of "nothing" was equivalent to his right not to respond at all. (**Board Review 19**).

PO Boylan and PO Ahmed observed in a well-lit area at night from a distance of about 50 feet for approximately 20 seconds prior to approaching . Their view, initially across one lane of moving traffic, was obstructed periodically by passing cars. During this time, both officers testified to have observed an L-shaped outline in sfanny pack. Although officer testimony was consistent on the existence of an L-shaped outline in pack, officer testimony was inconsistent on the orientation of the L-shape. Furthermore, once they each exited their car, PO Ahmed and PO Boylan approached from different angles and stated that, as they approached, they no longer saw the L-shaped outline that they initially saw and instead saw a rectangular protrusion, based on the change in their angle.
Other than the L-shaped outline, PO Boylan testified that away from his group and that did not turn to face PO Boylan when he approached. PO Boylan's testimony in that regard was supported by video evidence. PO Boylan testified that shaped behavior factored into his decision to stop state.
Between PO Boylan's stop of and his frisk of same 's fanny pack, did not turn towards PO Boylan and per PO Boylan's testimony, responded "nothing" to PO Boylan's question of what was in story and to turn towards him, only that same pot voluntarily turning





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§ 87(2)(g)
Allegation (K) Abuse of Authority: On October 19, 2022, at 100 Centre Street, Police Officer
alleged that PO Boylan provided a false official statement against alleged that PO Boylan provided a false official statement on October 19, 2022, during the suppression hearing as to the circumstances leading up to 's arrest (Board Review o9). noted that a review of the testimony and evidence led to the Court finding that PO Boylan was not credible.
provided the investigation with a transcript of the suppression hearing (Board Review 23). Consistent with sallegation, the Court found PO Boylan to be not credible; however, the Court's reasoning for that finding was not due to PO Boylan providing false testimony, but rather due to "his demeanor on the stand, his evasiveness and apparent unwillingness to answer some of counsel's questions on cross examination, particularly those questions involving his credibility itself [] particularly questions involving his prior experiences with the Civilian Complaint Review Board" as well as his consistent failure to prepare memo book entries and properly activate his BWC (see page 93, line 8 to page 94, line 2).
PO Boylan testified that he disagreed with the Court's assessment regarding his credibility (Board Review 10). During the suppression hearing, PO Boylan was asked about past unrelated cases that he did not recall. In one instance, he was provided an incorrect location, which was why he did not remember the incident and was unable to fully answer the questions. In another, he recalled going to the CCRB but did not recall the particulars of the arrest. He tried to be cooperative by asking for information about the incidents, so that he could refresh his memory.
§ 87(2)(g)
S 07(4 b) S 07(2)(a)
§ 87(4-b) § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which has been a party (**Board Review 06**).
- PO Boylan has been a member of service for seven years and has been a subject in seven other CCRB complaints and 15 other allegations, of which six were substantiated.:
 - 201703894 involved substantiated allegations of threat of force, discourtesy, and offensive language against PO Boylan. The Board recommended Formalized Training and the NYPD imposed Formalized Training.
 - 201801900 involved substantiated allegations of stop and frisk. The Board recommended Command Discipline B and the NYPD imposed Instructions.
 - 202001304 involved a substantiated allegation of force. The Board recommended Command Discipline A and the NYPD imposed no discipline.
- PO Ahmed has been a member of service for five years and has been a subject in two other CCRB complaints and five other allegations, none of which were substantiated. §87(2)(9)
- PO Burgos has been a member of service for 10 years and has been a subject in five other CCRB complaints and five other allegations, none of which were substantiated. §87(2)(9)

Mediation, Civil, and Criminal Histories

This complaint was not suitable for mediation.

§§ 86(1)(3)&(4) § 87(2)(c)

 As of June 14, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 07).

RPBP History This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.						
Squad:	1					
Investigator:	Inv. Adip Vora Signature	Inv. Adip Vora Print Title & Name	07/24/2023 Date			
Squad Leader: _	Mgr. Joy Almeyda Signature	Print Title & Name	07.24.2023 Date			
Reviewer:	Signature	Print Title & Name	Date			